

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 16

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte CHRISTOPHER A. HOFMEISTER

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Appeal No. 1999-0282  
Application No. 08/716,995<sup>1</sup>

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ON BRIEF

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Before COHEN, NASE, and CRAWFORD, Administrative Patent Judges.  
NASE, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 through 22, which are all of the claims pending in this application.<sup>2</sup>

We REVERSE.

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<sup>1</sup> Application for patent filed September 20, 1996.

<sup>2</sup> Claim 17 was amended subsequent to the final rejection.

BACKGROUND

The appellant's invention relates to a swap out plate and assembly. An understanding of the invention can be derived from a reading of exemplary claims 1, 17 and 20, which appear in the appendix to the appellant's brief.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Ozawa et al. (Ozawa)	5,474,410	Dec. 12, 1995
Muka et al. (Muka)	5,588,789	Dec. 31, 1996
		(filed July 6, 1995)

Claims 1 through 4, 6 through 9 and 11 through 19 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Muka.

Claims 5 and 10 stand rejected under 35 U.S.C. § 103 as being unpatentable over Muka.

Claims 20 through 22 stand rejected under 35 U.S.C. § 103 as being unpatentable over Muka in view of Ozawa.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellant regarding the above-noted rejections, we make reference to the final rejection (Paper No. 8, mailed December 10, 1997) and the examiner's answer (Paper No. 15, mailed July 22, 1998) for the examiner's complete reasoning in support of the rejections, and to the appellant's brief (Paper No. 14, filed June 11, 1998) for the appellant's arguments thereagainst.

#### OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellant's specification and claims, to the applied prior art references, and to the respective positions articulated by the appellant and the examiner. As a consequence of our review, we make the determinations which follow.

#### **The anticipation issue**

We will not sustain the rejection of claims 1 through 4, 6 through 9 and 11 through 19 under 35 U.S.C. § 102(e).

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.

Verdegaal Bros. Inc. v. Union Oil Co., 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir.), cert. denied, 484 U.S. 827 (1987). The inquiry as to whether a reference anticipates a claim must focus on what subject matter is encompassed by the claim and what subject matter is described by the reference. As set forth by the court in Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984), it is only necessary for the claims to "'read on' something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or 'fully met' by it."

Independent claim 1 recites a processing station including, inter alia, a load lock, a transport chamber, and a swap out plate having an abutment wall having a horizontally disposed slot communicating with a like slot in a face of the transport chamber. Independent claim 17 recites a load lock comprising, inter alia, a housing, a substrate support and a

swap out plate having an abutment wall having a horizontally extending slot.

In the final rejection (p. 2), the examiner stated that Muka shows "an apparatus comprising: a load lock; a transport chamber 38; and a swap out plate which includes chamber 50 and a portion of chamber 32, the swap out plate dimensioned as claimed." Additionally, the examiner set forth in the answer (p. 4) that the swap out plate with a slot and an abutment wall "are clearly shown in Fig. 2 of Muka et al."

The appellant argues (brief, pp. 4-6) that Muka does not anticipate each and every element recited in claims 1 and 17 and that the examiner has failed to give an element by element account of each and every limitation found in claims 1 and 17.

After review of the claimed subject matter of claims 1 and 17 and the disclosure of Muka, we conclude that the appellant is correct that Muka does not anticipate each and every element recited in claims 1 and 17. In that regard, we find no disclosure in Muka of "a horizontally disposed slot" as recited in independent claim 1 or "a horizontally extending slot" as recited in independent claim 17.<sup>3</sup> In addition, it is our view that the examiner's reading of the claimed "swap out plate" to be readable on Muka's chamber 50 and a portion of chamber 32 to be inappropriate. Accordingly, we agree with the appellant's argument (brief, pp. 11-12) that Muka fails to

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<sup>3</sup> While Muka's chamber 50 (i.e., interface valve) between the load lock 32 and the transport chamber 38 inherently has an opening to the transport chamber 38, it is not inherent that such an opening be a slot as such forth in claims 1 and 17.

disclose the claimed "substrate support" as recited in claim 17.

Since all the limitations of independent claims 1 and 17, as well as claims 2 through 4, 6 through 9, 11 through 16, 18 and 19 dependent thereon, are not disclosed in Muka, the decision of the examiner to reject claims 1 through 4, 6 through 9 and 11 through 19 under 35 U.S.C. § 102(e) is reversed.

#### **The obviousness issues**

We will not sustain the rejection of claims 5, 10 and 20 through 22 under 35 U.S.C. § 103.

In rejecting claims under 35 U.S.C. § 103, the examiner bears the initial burden of presenting a prima facie case of obviousness. See In re Rijckaert, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993). A prima facie case of obviousness is established by presenting evidence that would have led one of ordinary skill in the art to combine the relevant teachings of the references to arrive at the claimed

invention. See In re Fine, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988) and In re Lintner, 458 F.2d 1013, 1016, 173 USPQ 560, 562 (CCPA 1972).

*Claims 5 and 10*

The examiner's rejection of claims 5 and 10 under 35 U.S.C. § 103 is founded on the theory that all the limitations of parent claim 1 are disclosed by Muka. However, such is not the case for the reason set forth above.

Since the examiner has not established that all the limitations of claims 5 and 10 are obvious from the applied prior art, the decision of the examiner to reject claims 5 and 10 under 35 U.S.C. § 103 is reversed.

*Claims 20 through 22*

Independent claim 20 recites a processing station including, inter alia, a load lock, a transport chamber, a transport apparatus, and a connecting tunnel having a horizontally disposed slot located in an abutment face thereof



and communicating with a like slot in a face of the transport chamber.

The examiner's rejection of claims 20 through 22 under 35 U.S.C. § 103 is founded on the theory that all the limitations of claim 20 are disclosed by Muka except for details of the transport apparatus which the examiner determined were suggested by Ozawa's system. However, as set forth above with respect to claim 1, Muka does not disclose "a horizontally disposed slot" as recited in independent claim 20.

Since the examiner has not established that all the limitations of claim 20, and claims 21 and 22 dependent thereon, are obvious from the applied prior art, the decision of the examiner to reject claims 20 through 22 under 35 U.S.C. § 103 is reversed.

CONCLUSION

To summarize, the decision of the examiner to reject  
claims 1 through 22 is reversed.

REVERSED

IRWIN CHARLES COHEN	)	
Administrative Patent Judge	)	
	)	
	)	
	)	
	)	BOARD OF PATENT
JEFFREY V. NASE	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
	)	
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	)	
MURRIEL E. CRAWFORD	)	
Administrative Patent Judge	)	

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APPEAL NO. 1999-0282 - JUDGE NASE  
APPLICATION NO. 08/716,995

APJ NASE

APJ COHEN

APJ CRAWFORD

DECISION: **REVERSED**

Prepared By: Gloria Henderson

**DRAFT TYPED:** 07 Jun 99

**FINAL TYPED:**